

Court of Appeals, State of Michigan

ORDER

People of MI v Randy Allen McElhaney

Docket No. 265543

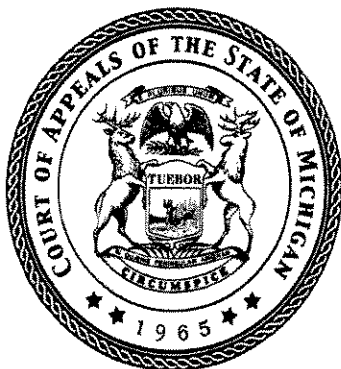
LC No. 92-000969-FC

Christopher M. Murray
Presiding Judge

Kathleen Jansen

Pat M. Donofrio
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. MCL 770.16(7) is inapplicable to defendant's case because to proceed under MCL 770.16(7) the defendant must first had to file a petition for DNA testing of biological testing in the trial court after January 8, 2001, under MCL 770.16(2), and then the trial court had to grant the petition after the filing of the petition under MCL 770.16(3). Neither event occurred in this case. Instead, the defendant even before trial had the evidence that he now asserts justifies a new trial. In fact, defendant used this evidence to argue that the verdict was against the great weight of the evidence in the application for leave to appeal he filed October 6, 1997. See pages 53 and 54 of the original application filed in docket number 206606.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 24 2006

Date

Sandra Schultz Mengel
Chief Clerk